REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested. Claims 43 and 44 have been amended without prejudice or disclaimer. Claims 47 and 48 have been cancelled without prejudice or disclaimer.

Claim Objections

Applicants have cancelled claims 47 and 48 thus addressing the objection to these claims. Applicants respectfully request withdrawal of this objection.

Rejection of Claims 43-48 Under 35 U.S.C. §101

The Office Action rejects claims 43-48 under 35 U.S.C. §101 because it is directed to non-statutory subject matter. Applicants have adopted the suggestion by the Examiner to remove the phrase "at least one of". Accordingly, Applicants respectfully submit that the pending claims comply with 35 U.S.C. §101.

Rejection of Claims 43-44 and 46-48 Under 35 U.S.C. §103(a)

The Office Action rejects claims 43-44 and 46-48 under 35 U.S.C. §103(a) as being unpatentable over Bickmore et al. (U.S. Patent Publication No. 2001/0019330) ("Bickmore et al.") in view of Delorie ("Why HTML Mail is Evil") ("Delorie"). Applicants respectfully traverse this rejection and submit that even if combined these references fail to teach each limitation of the claims. Furthermore, Applicants submit that one of skill in the art would not have sufficient motivation or suggestion to combine these references.

First, Applicants shall explain why Bickmore et al. fail to teach the particular limitations of the claims. We first turn to claim 43. The Office Action asserts that paragraphs [0009] - [0011], [0052], [0059] - [0064] teach the limitation of presenting a sender with an option to choose at least two animated entities to deliver respective portions of an email text message to the recipient, the choice of which animated entity to deliver which portion of the text message being effected by the insertion in the text message of a non-text indicator associated with the

chosen animated entity. Applicants respectfully submit that none of the paragraphs cited in the

Office Action teach this limitation. Notably, Applicants traverse the analysis on page 5 that

these cited paragraphs from Bickmore et al. teach that the animated entity "reads the portion of

the text to which it is linked".

Applicants respectfully submit that when the teachings of Bickmore et al. are fairly

analyzed, we note that the avatars disclosed by Bickmore et al. do note read or deliver portions

of a text message to a recipient. Rather, the reference teaches a different approach and use with

respect to the document. Initially, Applicants note that the user in Bickmore et al. is interacting

with a webpage and not a multi-media message created by a sender and sent to a recipient. In

any event, Applicants note that the avatars that are bound to a document provide a "narrative that

a given avatar can deliver regarding the annotated object." See paragraph [0009]. Users viewing

the document see in the margin displayed avatars that are available for a user to interact with by

selecting them and dragging them on to the document or selected parts of the document which

has one or more avatars associated with it. In no place can Applicants find where the avatars

would read the actual portions of the documents. Rather, the avatars are taught as providing an

extra amount of information when they are invoked. See paragraph [0010]. The avatars are

taught as offering "more information" or "add[ing] to the information available by providing

context to the document's construction." Paragraph [0052] discloses an ASL file which is an

avatar scripting language file that is used to describe the avatar's behavior. See paragraph

[0050]. Paragraph [0052], however, with regards to what the avatar actually says, is limited to

the avatar saying "hello". Therefore, this paragraph fails to teach or suggest anything in regards

to the avatar delivering portions of a text message to the recipient.

Paragraphs [0059] - [0064] are also cited as teaching this particular limitation. However,

paragraph [0060] discusses further the avatar ASL script files and gives as an example that when

following these script files, the avatars provide "additional details, to express opinions, and/or to

navigate a reader through the electronic document." Applicants respectfully submit that in

reviewing the paragraphs cited in the Office Action, Applicants can find no place in which any

of the avatars selected by the users in Bickmore et al. would deliver respective portions of the

text message to the recipient.

Therefore, Applicants respectfully submit that this fundamental limitation is not taught or

suggested in the reference. Indeed, Applicants submit that the reference teaches away from such

an approach by virtue of expecting the user to be able to read the actual text in the document and

focusing on how the avatars could provide this "extra information," that is beyond what the

viewer can read. In other words, it is expected in Bickmore et al. that the user can read the text

of the document and therefore their focus is on providing the ability of avatars to give guided

tours or other enhanced additional amounts of information beyond what the text message is. In

this respect, Applicants submit that only impermissible hindsight and knowledge of the present

invention would cause one to read Bickmore et al. and to focus on the actual text of the

document.

Additionally, Applicants note that in claim 43, the choice of the animated entity to deliver

which portion of the text message is effected by the insertion into the text message of a non-text

indicator associated with the animated entity. Applicants submit that Bickmore et al. fail to

teach this approach inasmuch they clearly require a user to select an avatar and then drag the

avatar into the document or by selecting part of the document which has one or more avatars

associated with it. In other words, it is clear that the user in Bickmore et al. must select and/or

drag the avatar. In contrast, claim 43 requires the choice of the animated entity to be performed

by insertion into the text message of a non-text indicator associated with the animated entity.

Applicants note that we are strengthening this particular position by amending claim 43 to

require the delivery of the multi-media message to be with the chosen animated entity to be done

independent of any reader interaction to select an animated entity. Accordingly, Applicants

submit that this provides an additional distancing of claim 1 from the teachings of Bickmore et al.

Next, Applicants respectfully traverse the analysis that the step of delivering the multimedia message is taught in paragraphs [0009] - [0011], [0052] and [0059] - [0064] of Bickmore et al. Again, Applicants note that the Office Action cites these paragraphs and characterizes their teachings as including where "each character/animated entity in document [sic] are heard to speak their portion of the text document according to the position in the text document of the link associated with their avatar definition file." Applicants simply submit that this is clearly not taught in the reference inasmuch as the only teaching of what the avatar actually says is information which is additional to the text of the document. Applicants submit that absent impermissible hindsight, that an objective analysis and review of the teachings of these references lead to the fact that Bickmore et al. simply fail to teach this limitation.

Therefore, Applicants respectfully submit that since Bickmore et al. fail to teach several limitations of claim 43, that this claim as well as claims 44-46 are patentable and in condition for allowance.

Applicants also respectfully submit that one of skill in the art would not have sufficient motivation or suggestion to combine Bickmore et al. with Delorie et al. The Office Action concedes that Bickmore et al. fail to teach the text document as an email message document. However, just because Delorie teach an email text message based on an HTML command, this does not mean that one of skill in the art would clearly combine these references. The Office Action asserts on page 6 that incorporating the teachings of Delorie would provide hyper-text capabilities and electronic documents such that animated characters can be commanded to execute an animation and/or speak a text string. Applicants note that this feature is already available with the teachings of Bickmore et al. Notably, paragraph [0052] again discusses ASL file which includes texts such as "hello" that the animation can speak. Thus, text strings are

already used. Additionally, avatars are already taught as being related to HTML and indeed

avatar links are taught in paragraph [0060]. Additionally, an avatar script and definition files

may be used in conjunction with the hyper-text document such as an HTML web browser.

Therefore, the idea of hyper-text capabilities via HTML is already expressly taught in Bickmore

et al.

Applicants submit that one of skill in the art would not likely look to the particular

teachings of Delorie for the reason set forth on pages 5 and 6 of the Office Action. Furthermore,

Applicants submit that it is not likely that one of skill in the art by a preponderance of the

evidence would combine these references because Bickmore et al.'s avatars, as has been amply

discussed above, involve providing extra or additional information about a document.

Applicants submit that one of skill in the art would not likely modify an email text message

based on an underlying HTML command with avatars in the manner discussed in Bickmore et al.

From a common sense point of view, Applicants submit that emails are created quickly and

easily everyday by senders. one of skill in the art would not likely believe that the average user

would want to annotate each object in an email message with multiple avatars which require the

end user which receives an email message to have to select and drag avatars into a document in

the manner taught in paragraphs [0009] - [0011] of Bickmore et al. Applicants respectfully

submit that the preponderance of the evidence is against one of skill in the art of believing that it

would be beneficial for the sender or receiver of an email to engage in such complicated

approaches. Therefore, Applicants submit that when an objective analysis is performed and the

suggestions and benefits versus the difficulties involves in blending the references in the manner

suggested, Applicants submit that the preponderance of the evidence is against their combination

and therefore claim 43 is patentable and in condition for allowance.

Claim 44 is also patentable for the same reasons set forth above, as well as its dependent

claims 45 and 46.

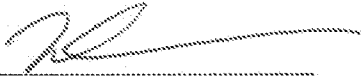## Rejection of Claim 45 Under 35 U.S.C. §103(a)

The Office Action rejects claim 45 under 35 U.S.C. §103(a) as being unpatentable over Bickmore et al. in view of Delorie and in further view of Rosenblatt et al. (U.S. Patent No. 6,453,294) ("Rosenblatt et al."). Applicants submit that claim 45 depends from a patentable parent claims and recite further limitations therefrom. Therefore, Applicants respectfully submit that claim 45 is patentable and in condition for allowance.

CONCLUSION

Having addressed all rejections and objections, Applicants respectfully submit that the

subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce &**

Quigg, LLP, Account No. 14-1437 for any deficiency or overpayment.

Respectfully submitted,

Date: September 28, 2009   By: _____

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